IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O.No.2003 of 2007

Date of Decision: November 19, 2007

National Insurance Company Ltd. .....Appellant

Versus

Gurmit Kaur and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.RC Gupta, Advocate for the appellant.

Mr.Ramneek Vasudeva, Advocate for respondents No.1 to 4.

Mr.Jatinder Sharma, Advocate for respondent No.5.

S. D. ANAND, J.

1. The respondents are dependent family members/legal representatives of Darshan Singh who, in the course of employment of employer-respondent No.5 (hereinafter referred to as "the employer) died on 10.9.2003. Respondent Gurmit Kaur is wife of Darshan Singh. Respondents Harvinder Singh and Harjinder Kaur were begotten to her from the loins of her deceased-husband Darshan Singh. Respondent No.4-Gurdev Kaur is mother of deceased Darshan Singh. He was in employment of the employer, as a driver, on Tractor No.PB-56-3909. On the relevant date, he was transporting sand when the jack suddenly fell upon him and he died instantaneously at the spot. D.D.R. No.26 dated 10.9.2003 was lodged at Police Station, Leh, by claimant-respondent Gurmit Kaur.

2. The Commissioner under the Workmen's Compensation Act (hereinafter referred to as "Commissioner") upheld the entitlement of the respondent-claimants to a compensation of Rs.2,88,210/-. He further held that the employer and respondent-company shall be liable to pay the amount of compensation jointly and severally. The Commissioner awarded further simple interest @ 9% per annum on the awarded compensation with effect from the date of compensation till the payment thereof.

3. I have heard Mr.RC Gupta, learned counsel for the appellant, Mr.Ramneek Vasudeva, learned counsel for respondents No.1 to 4 and Mr.Jatinder Sharma, learned counsel for respondent No.5 and have carefully perused the records.

4. Learned counsel for the appellant-Insurance Company argued that the award of interest with effect from the date of accident is not in accord with the law laid down by the Apex Court in **National Insurance Co. Ltd. Vs. Mubasir Ahmed and another,** (2007-2) P.L.R. 188.

5. Learned counsel for the claimants and the employer contested the plea by arguing that the aforementioned ruling rendered by two judgments of the Apex Court does not hold the fort in the face of a three-Judges Bench ruling rendered by the Apex Court in **Maghar Singh Vs. Jashwant Singh**, 1997 ACJ 517.

6. The plea on behalf of the appellant does not deserve acceptance. It is obviously a ruling rendered by a larger Bench which would be deemed to be the law of land. The Bench which rendered the judgment in **Maghar Singh's** case (supra) consisted of three Judges of the Apex Court. Both the judicial pronouncements were otherwise under the Workmen's Compensation Act, 1923 (hereinafter referred to as "the Act")

and pertained to the injuries sustained in the course of employment.

7. Learned counsel for the appellant argued, in the first instance, that the Insurance Company cannot be burdened with the liability on point of interest as the only obligation upon it is to pay up on behalf of the insured.

8. The plea is bereft of merit in view of the law laid down by the Apex Court in **L.R.Ferror Alloys Ltd. Vs. Mahavir Mahto and another,** 2001 ACJ 645. In that case, the employee had lost sight in both the eyes while pouring water for cooling the hot slab when the slab burst, causing burn injuries on his face resulting in the loss of vision. He preferred a claim before the Commissioner under the Act. The Apex Court held that the liability of the Insurance Company to pay interest is part and parcel of legal liability to pay compensation in terms of Section 4-A of the Act. In that view of things, the plea is held to be devoid of force.

9. Lastly, learned counsel for the appellant argued that the driving licence which the deceased was allegedly holding was produced only one week before the pronouncement of award and no adequate opportunity had been afforded to the Insurance Company to verify the genuineness of the driving licence.

10. The learned counsel has not been able to invite the attention of this Court to any material obtaining on the file to the effect that the appellant ever raised any plea for the grant of opportunity for verification of the genuineness of the driving licence. In the face of that contention, learned counsel for respondents No.1 to 4 stated at the bar, in the course of arguments, that the licence has been verified by the Insurance Company in the meantime to be genuine. In the absence of instructions, learned counsel

for the appellant was not in a position to contradict it.

11. In the light of foregoing discussion, it is held that the appeal is held to be devoid of force and is ordered to be dismissed.

(S. D. ANAND)
JUDGE

November 19, 2007
SRM

Note: Whether referred to reporter ? Yes/No